HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition No. 874 of 2002

PETITIONER

Steel Authority of India Limited, A company incorporated under the provisions of Companies Act, 1956 having it's Registered Office at Ispat Bhawan, Lodhi Road, New Delhi - 110 003

Through : It's Managing Director, Bhilai Steel Plant, Bhilai Distt. Durg (Chhattisgarh).

Versus

RESPONDENTS

1. Union of India Through : Secretary, Department of Mines New Delhi.
2. State of Chhattisgarh, Through : Principal Secretary, Mineral Resources Department Mantralaya, D.K. Bhawan, Raipur Distt. Raipur (Chhattisgarh)
3. The Collector Distt. Durg (Chhattisgarh)

Present :-

Shri P Diwakar, Senior Advocate with Shri Adil Minhaz, counsel for the petitioner.

None for respondent No.1.

Shri NK Agrawal, Dy Advocate General, for the State/respondents No.2 & 3.

ORAL ORDER
(Passed on 19th March, 2007)

The following oral order of the Court was passed by

H.L. Dattu, CJ.

Petitioner is a company incorporated under the provisions of Companies Act, 1956 ("the Act" for short).

2) In this petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks for the following reliefs :-

I. to strike down Rule 64-B of Mineral Concession Rules, as ultra vires.

II. restrain the respondents from raising any demand on the basis of Rule 64-B of Mineral Concession Rules. The demand of additional royalty by notice dated 14.03.2002 and 19.03.2002, be quashed.

3) Shri Agrawal, learned Dy Advocate General, at the time of hearing of this petition brings to our notice the law declared by the Apex Court in so far as Rule 64-B of Mineral Concession Rules in the case of **National Mineral Development Corpn. Ltd vs. State of M.P.** reported in **(2004) 6 SCC 281**. In the said decision, the Apex Court at Paragraph 32, has observed as under :

> "32. Though the objects and reasons which prompted the abovesaid amendment are not known to us (none placed for consideration by any of the parties), in all probability the same seems to have been prompted by the pronouncement of this Court in State of Orissa V. Steel Authority of India Ltd. Be that as it may, the abovesaid Rules also suggest the intention of the Government that dumped tailings or rejects (or in other words "slimes") are to be treated as a separate head and charge of royalty thereon is not to be made as a matter of course. Dumped tailings or rejects may be liable to payment of royalty if only they are sold or consumed. Rules 64-B and 64-C are general in nature, applicable to all types of minerals. There are several other entries in the Second Schedule where a mineral is liable to royalty on tonnage basis no sooner extracted and as run-of-mine (ROM). Such entries do not further classify the mineral by reference to its constituents. The case of iron ore is different. So far as the iron ore is concerned, the provisions of Section 9 of the Act read with Entry 23 of the Second Schedule and the abovesaid rules homogeneously construed do not subject the run-of-mine (ROM) to payment of royalty. The Second Schedule does not prescribe any rate of royalty on the iron ore as run-of-mine and the levy of royalty has to be postponed until the processing has

been done and the quantity of lumps, fines and concentrates (none of which will include slimes) has been found out on the availability of which data alone the royalty is capable of being quantified. Under the Second Schedule, the slimes which have come into existence shall have to be excluded from the charge of royalty."

4) In view of the declaration of law made by the Apex Court, which is binding on us under Article 141 of the Constitution, the relief sought for by the petitioner would not survive for consideration. Accordingly, the Writ Petition is rejected. Ordered accordingly.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice